IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Shiv Kumar. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 1228/2006
for seeking quashing of the proceedings.

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Date of Order: September 20, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Chaitanya Gahlot, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Ms. Usha Tanwar, for complainant/non-petitioner No.2.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioner has assailed the order dated 17-6-2006 passed by the Judicial Magistrate No.1, Sujangarh, district Churu (for short, "the trial Court" hereinafter) in Criminal Regular Case No. 103/2005, State Vs. Shiv Kumar, whereby the trial Court declined to verify the compromise on the ground that the offences under Section 498-A and 406 IPC are not compoundable.

Heard learned counsel for the petitioner and the Public Prosecutor for the State.

The complainant and the present petitioner had filed

the compromise before the trial Court also, but since the offences under Section 498-A and 406 IPC are not compoundable, the trial Court declined to verify the compromise.

In B.S. Joshi & ors. Vs. State of Haryana & Anr., 2003 SCC (Cri.) 848, the Hon'ble Supreme Court held that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing the FIR. The Apex Court further observed that the High Court, in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 Cr.P.C. does not limit or affect the powers under Section 482 Cr.P.C. It was further held that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier and that is not the object of Chapter XX-A of the IPC.

In Surendra Singh & ors. Vs. State of Rajasthan & Anr., 2005 (1) RCC 453, a coordinate Bench of this Court held that the basic object of matrimonial law is to facilitate happy and harmonious matrimonial life between the spouses and if they approach the Court, permission sought for to compound the offences under Sections 498-A and 406 IPC pursuant upon the compromise filed by the parties should be accorded by this Court under Section 482 Cr.P.C.

Since the complainant herself does not want to

prosecute her husband in view of the settlement arrived at between the parties, no useful purpose would be served to allow the criminal proceedings to go on for the reason that neither the complainant nor her witnesses are going to support the complaint filed by her and, therefore, the trial would be a mere formality. In the circumstances, therefore, it is not expedient in the interest of justice to permit the prosecution launched by the complainant against the petitioner to continue because it would be an abuse of the process of the Court and even if the proceedings are allowed to go on, the ultimate end is bound to be dismissal of the complaint or the prosecution case. Therefore, keeping in view the decision of the Hon'ble Supreme Court in B.S. Joshi & ors. Vs. State of Haryana & Anr. (supra), in the interest of justice, it is considered just and proper to quash the criminal proceedings by exercising the inherent powers under Section 482 Cr.P.C.

Consequently, the criminal miscellaneous petition is allowed and the criminal proceedings pending against the petitioner in Criminal Case No.103/2005, titled State Vs. Shiv Kumar, in the Court of the Judicial Magistrate No.1, Sujangarh, district Churu, are quashed.

(H.R. PANWAR), J.

mcs